

# Memorandum

San Francisco Police Department



**To:** William Scott  
Chief of Police  
San Francisco Police Department

**From:** Lieutenant R. Andrew Cox #287  
Office in Charge  
Internal Affairs Division-Admin

**Date:** June 12, 2018

**Subject:** Officer-Involved Shooting #15-010

	APPROVED	YES	NO
Acting Captain	<u>WJB</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lt. William Scott #2246	<u>WJB</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Commander Peter D. Walsh #2087	<u>WJB</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Office of Chief of Staff	<u>WJB</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**MEMBERS:**

Officer Charles D. August #1119

Officer Winson Seto #2370

Officer Antonio Santos #2474

Officer Nicholas Cuevas #2295

Officer Scott Phillips #1707

**TYPE OF INVESTIGATION:**

Administrative- Officer-Involved Shooting

**CASE NUMBER:**

OIS 15-010

Case #151-045-735

**DATE, TIME AND PLACE  
OF OCCURRENCE:**

December 2, 2016 at 1635 hours

██████ Keith St., San Francisco, CA

**INVESTIGATOR:**

Sergeant Jayme Campbell #759

**INCIDENT BRIEF:**

On Wednesday, December 2, 2015, at approximately 1549 hours, units responded to the area of 6███ 3<sup>rd</sup> Street on the call of a “B Priority 219” (stabbing). The victim had been taken to San Francisco General Hospital, Mission Emergency Hospital (SFGH MEH) and reported the incident to staff. The incident had occurred at approximately 1450 hours. A suspect description was broadcast and units responded to the area.

A unit, 3C46, Officers Margreiter #2356 and McKay #4346, who responded to the area were flagged down by a witness to the stabbing and advised them that the suspect, later identified as Woods, was still in the area. The witness provided a more detailed description which was broadcast. A supervisor, 3C170, Sergeant Hugh Hall III, directed over the air that units with -Extended Range Impact Weapon (ERIW) needed to respond to the scene. An initial perimeter was set up but was later broken down after the search produced negative results for Woods. Shortly thereafter, 3C74, Officers August and Thompson located Woods standing at a bus stop, occupied by several civilians, at the corner of Keith and Fitzgerald Streets.

Officer August exited his patrol vehicle and was met by Woods with verbal resistance. Woods produced a knife in his right hand to which Officer August drew his Department-issued firearm. Officer Thompson broadcast over the radio that they located Woods, called for additional units and requested ERIW as they followed Woods southbound on Keith St.

3C14D, Officer Seto and Officer Navarro arrived on scene. Officer Navarro, a Specialist, was equipped with the 40mm Less Lethal ERIW and Officer Seto provided the mandated lethal cover; they took up positions south of Woods. 3C12D, Officers Cuevas and Phillips arrived on scene and assisted in containing Woods along with 4T2A, Officer Santos, from the Tactical Team; 3C13B, Officer Traw, equipped with the 12 gauge Less Lethal ERIW; and 3C78, Officer Ortiz who subsequently utilized his Department-issued O.C. Spray.

Officers employed various methods to get Woods to comply with their commands to drop his weapon. These included verbal commands, O.C. spray, Less Lethal Force options including: 40mm ERIW and the 12 gauge ERIW bean bag rounds. None of these options achieved the desired effect; Woods continued to brandish his knife did not surrender.

Woods began to move northbound, towards the populated bus stop at Fitzgerald St. In an effort to prevent Woods from doing so, Officer August stepped into Woods' path. Woods continued directly towards Officer August, who backpedaled. When Woods approached less than ten feet from Officer August, Officer August, Officer Seto, Officer Santos, Officer Cuevas, and Officer Phillips, fired their Department-issued firearms at Woods, mortally wounding him.

**FOCUS OF INVESTIGATION:**

Was the firearm discharge involving Officer Charles D. August #1119, Officer Winson Seto #2370, Officer Antonio Santos #2474, Officer Nicolas Cuevas #2295, and Officer Scott Phillips #1707 within Department policy and procedure?

**IDENTIFIED / INVOLVED PARTIES:**

**Member(s):**                    **Officer Charles D. August #1119**  
                                      **Bayview Station Housing**  
                                      **Date of Entry:** [REDACTED]

**Officer Winson Seto #2370**  
                                      **Bayview Station Patrol**  
                                      **Date of Entry:** [REDACTED]

**Officer Antonio Santos #2474**

**Tactical Team**

**Date of Entry:** [REDACTED]

**Officer Nicholas Cuevas #2295**

**Bayview Station Patrol (Field Training Officer)**

**Date of Entry:** [REDACTED]

**Officer Scott Phillips #1707**

**Bayview Station Patrol (3<sup>rd</sup> phase FTO)**

**Date of Entry:** [REDACTED]

**Officer Shaun Navarro #1435**

**Bayview Station Patrol**

**Date of Entry:** [REDACTED]

**(Deployed 40mm Extended Range Impact Weapon)**

**Officer Jennifer Traw #566**

**Bayview Station Patrol**

**Date of Entry:** [REDACTED]

**(Deployed 12 gauge Extended Range impact Weapon)**

**Officer Jessie Ortiz #1131**

**Bayview Station Patrol**

**Date of Entry:** [REDACTED]

**(Deployed Oleoresin Capsicum (O.C.) spray)**

**Witness(es): (R/V)** [REDACTED]

[REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Suspect:**

**Name:** Mario Woods

**Sex/Race:** Male/ Black

**DOB:** [REDACTED]

**Ht. / Wt:** 5'5" / 145lbs

**Address of Record:** [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

**INVESTIGATIVE CHRONOLOGY:**

Refer to Attachment A

**INVESTIGATIVE FINDINGS:**

The following investigative findings rely substantially upon the interviews of involved officers: Officer Charles D. August #1119, Officer Winson Seto #2370, Officer Antonio Santos #2474, Officer Nicolas Cuevas #2295 and Officer Scott Phillips #1707; and witnesses, that were conducted by Homicide Detail investigators (handling the criminal investigation memorialized in incident report 151-045-735) and by Internal Affairs Division investigators (handling the administrative investigation of case number OIS 15-010).

These findings are based on additional sources of information related to this incident, including the findings of Inspector John Cagney's #341 criminal investigation, the Medical Examiner's Report, the incident report, written statements by responding officers, physical evidence, CSI reports and analysis, and DEM CAD and audio records.

**Incident Overview**

On Wednesday, December 2, 2015, at approximately 1549 hours, dispatch broadcast the call of a "B Priority 219"(stabbing) walk-up at San Francisco General Hospital, Mission Emergency Hospital (SFGH MEH). The victim of the attack, later identified as [REDACTED] [REDACTED] reported that [REDACTED] had been stabbed by a subject at [REDACTED] 3rd St. at

approximately 1450 hours. The suspect was later identified as Mario Woods. The original suspect description was provided by the victim through dispatch as an unknown race male with a light complexion, wearing a hooded sweatshirt. This description was broadcast and units responded to the area where the incident had occurred to search for the suspect and/or a crime scene.

3C46, Officers Margreiter and McKay responded to the area and were flagged down by a witness [REDACTED] at 3rd and Le Conte Streets. [REDACTED] advised them that [REDACTED] saw [REDACTED] being stabbed by a black male. 3C76, Officers Mathew Pashby #1575 and Eddieberto Martinez #4190 obtained a more detailed suspect description from [REDACTED] and broadcasted it. [REDACTED] described the suspect as approximately 5'8" tall, wearing a baseball cap, black hoodie or jacket with a white mark on the front, and tan pants. [REDACTED] stated that Woods was still in the area. An initial perimeter was set up and a supervisor, Sergeant Hugh Hall #567 announced over the air that units with ERIW needed to respond to the scene. The search failed to locate Woods and the perimeter was broken down.

Approximately two minutes after the perimeter was broken down, 3C74, (Officers August and Thompson) broadcast that they had located a subject (Woods) with a knife at Keith and Fitzgerald Streets. The subject matched the description broadcasted and was standing at a bus stop along with several bystanders.

Officer August exited his patrol vehicle as Woods stated, "I'm not going with you." Woods produced a knife in his right hand which led Officer August to draw his Department-issued firearm that he pointed at Woods.

Officer Thompson broadcast that his partner, Officer August, had the suspect at gunpoint. He advised that the suspect was armed with a knife that he refused to drop. Officer Thompson broadcast that the suspect had advanced towards his partner with the knife. He requested ERIW as they followed Woods, on foot, southbound on Keith St. Officer Thompson could be heard over an open radio saying, "Hey D, back up! Back up D, back

up!”

Officer Seto and Officer Navarro (3C14D) were the first of several units to arrive on scene. Officer Navarro was equipped with the 40mm Less Lethal ERIW and Officer Seto provided the mandated lethal cover. They took up positions south of Woods, to the right of Officer August. Field Training Officer Cuevas and his recruit, Officer Phillips (3C12D) arrived and moved to a perimeter to assist in the attempt to contain Woods. The officers began to encircle Woods to contain him and block his avenues of escape. Other officers who arrived were Officer Santos of TAC (4T2A), Officer Traw (3C13B), and Officer Ortiz (3C78). Officer Traw was armed with a Department issued 12 gauge less-lethal ERIW; Officer Ortiz would ultimately deploy O.C.

The officers attempted to get Woods to drop his knife. Verbal commands of “Drop the knife” were repeated, as well as an attempt by Officer August to gain a rapport with Woods, without effect. Officer Navarro would deliver, from approximately twenty feet away, four rounds from the 40mm ERIW contacting Woods each time. Officer Traw would fire her 12 gauge ERIW two times, (distance unknown), striking Woods twice with bean bag rounds. Officer Traw believed her rounds caused Woods to “bend over slightly” but he continued to walk towards Officer August. Officer Ortiz sprayed Woods in the facial area with the Department-issued O.C. spray. None of these force options were effective in gaining Woods’ compliance to drop the knife or surrender.

As these efforts were on-going, both Officer Seto and Officer August reported hearing Woods say something to the effect of, “You’re going to have to shoot me,” as he shook his head “no,” and paced back and forth.

After the less lethal options were deployed, Woods resumed his northbound trek, towards the crowded bus stop at Fitzgerald and Keith Streets. In an effort to prevent Woods from getting back to the bus stop where numerous civilians were, Officer August stepped into Woods’ path. Instead of causing Woods to stop, Woods continued directly towards



Officer August. Officer August attempted to gain space and backpedaled. Woods failed to follow any of the officers' numerous commands to drop the knife or get on the ground. As Woods came within ten feet of Officer August, Officer Seto, Officer Santos, Officer Cuevas, Officer Phillips, and Officer August fired their Department-issued firearms at Woods, striking and mortally wounding him. The officers stopped firing once Woods had fallen to the ground. Each of these officers said that once Woods had fallen to the ground, they felt he was no longer a threat.

After Woods had fallen to the ground, Officer Seto and additional officers began to administer First Aid and CPR. Tourniquets were applied to Woods lower extremities in an attempt to stop the bleeding. An ambulance was summoned by Sergeant Hall.

The scene was secured and a crime scene was established allowing SFFD Medic #65 safe access to take over the medical aid to Woods. SFFD Paramedic Locks #1297 medically assessed Woods and pronounced him deceased at the scene. The Medical Examiner responded to the scene and took custody of Woods' body.

### **Computer Assisted Dispatch (DEM) Records and Recordings**

Certified copies of all Computer Aided Dispatch (CAD) records and the certified audio recordings were obtained from the Department of Emergency Management (DEM) and included with this report. The following noteworthy broadcasts and CAD entries provide a sequence of events and approximate timeframe for the incident.

#### **➤ Timeline of Significant Event**

(Based on official DEM audio and CAD records- times are not in sync between listening to dispatch recordings and reading CAD. *Italicized entries denote what was heard on the recordings but not picked up in the transcripts of the CAD record.*)

• Radio Traffic/ CAD: “B priority 219 walk-up”

15:54:16 Dispatch broadcasts the call

\*\* Units show responding to the call in CAD

16:18:37 (3C46) Calls for code 33- has info that suspect is still in the area- description of suspect given.

16:20:10 (3C170) *(Sgt. Hall) Request for further description. Requests ERIW to area.*

16:20:40 (3C15C) *Acknowledges ERIW Request.*

16:31:38 (3C46) Clear Code 33- area searched

16:34:06 (3C76) (Off. Thompson) “We got the guy! Keith & Fitzgerald with the knife. I got him at gunpoint. I don’t have ERIW-he’s got the knife- he’s charging my partner-I need units! I need units! I need units!”  
  
*“We’re going towards Gilman right now-he’s got the knife in his right hand-he’s a failure to drop the knife-he’s coming at my partner- ‘Hey D back up! Back up D, back up!’*

16:34:32 (3C170) “Ok, listen up! Someone deploy ERIW!”  
16:34:49 (3C74) \*Unit identifier incorrectly designated in CAD as 3C170\* *“ERIW deployed one time, two times, still got the knife in his hand! ERIW deployed four times! He’s refusing orders- he’s refusing to drop the knife.*

16:35:18 (3C74) “Shots fired!”

16:35:25 (Unk unit) “One down-we’re going to need a 408; [REDACTED] 3<sup>rd</sup> St. 408- large crowd.”

\*Approximately seventy-two seconds pass between the time Officers August and Thompson make contact with Woods to the time of the OIS.

**Crime Scene Investigations/Laboratory Examination**

Crime Scene Investigations responded to the scene located in an area including 3<sup>rd</sup> St., Fitzgerald St., and Keith St., with particular attention paid to [REDACTED] Keith St. Evidence was seized and photos and crime scene video taken. A written report was submitted and attached to this investigation.

CSI logged several evidentiary items from the incident including, but not limited to, the following:

- Four (4) 40mm casings “Foam Baton”.
- Four (4) 40mm “Foam Baton” projectiles.
- Twenty six (26) 40 caliber S&W cartridge casings.
- One (1) 12 gauge “Super Sock” casing (ERIW).
- Two (2) “Super Sock” (ERIW) bean bag projectiles.
- One (1) 4-1/2”, serrated blade, kitchen knife w/ 4” handle.
- One (1) Jacketed bullet.
- Miscellaneous bullet fragments.
- One (1) Medical bag labeled, “Co.C.”
- One (1) “LG” cell phone.

Other evidence collected from places other than the scene included (but was not limited to):

- One (1) Sig Sauer P226 handgun (from Off. Seto, SN# [REDACTED])
- One (1) Sig Sauer P226 handgun (from Off. Phillips, SN# [REDACTED])



- One (1) Sig Sauer P226 handgun (from Off. August, SN# [REDACTED]).
- One (1) Sig Sauer P226 handgun (from Off. Cuevas, SN# [REDACTED]).
- One (1) Sig Sauer P226 handgun (from Off. Santos, SN# [REDACTED]).
- One (1) Remington Patrol Extended Range Impact Weapon (from Off. Traw, SN# [REDACTED]).
- One (1) Armor Holdings 40mm Tactical ERIW (from Off. Navarro, SN# [REDACTED]).
- One (1) canister of “Saber Red Stream”- O.C. Spray (from Off. Ortiz, SN# [REDACTED]).

The following information was gathered from the Criminalistics Laboratory Report:

Standard firearms examinations were performed on each of the five collected Sig Sauer P226's (serial #'s [REDACTED]) as well as the two Extended Range Impact Weapons “in accordance with the standard operating procedures of the Firearm and Toolmark Unit.” Each of the weapons were examined separately and found to be functional and in proper working order.

The 26 recovered .40 caliber S&W cartridge casings were found to have been fired from the five submitted Department-issued firearms.

The Cooking Basics Premium serrated edged knife was visually and microscopically examined for bullet impacts and/or bullet related impact damage and none were found. Per the Homicide Summary Report, the submitted DNA testing material collected from the knife recovered at the crime scene indicated that Mario Woods was the main contributor of the DNA profile recovered from the knife handle. The DNA testing materials collected and submitted from the knife recovered at the crime scene indicated that the victim at SFGH was the main contributor of the main DNA profile recovered from the knife blade.



**Criminal Investigation**

The Homicide Detail of the San Francisco Police Department was notified of the Officer Involved Shooting and initiated a criminal investigation into the incident. Homicide Investigators, Inspector John Cagney #341, Sergeant Gary Watts #1594, Sergeant Carl Bonner #1099, Sergeant Mark Hutchings #904, and Lt. Alexa O'Brien arrived on scene as did Captain Chris Pedrini #1204 and (then Commander) Asst. Chief Tony Chaplin #951.

Inspector Cagney, Sergeant Watts, Sergeant Bonner, and Sergeant Hutchings conducted interviews of the involved members and witnesses. The interviews were voluntary and each of the involved members were represented by POA Attorney Mike Hinkley, Don Nobles, or Scott Burrell, respectively. The voluntary statements provided by the officers' were consistent with the officers' compelled IAD statements. Therefore for brevity, only the officers' IAD statements have been summarized in this report.

**Administrative Investigation**

The Internal Affairs investigation was led by Sergeant Jayme Campbell #759, who was assisted by Sergeant John Crudo.

**Internal Affairs Division Interviews**

Between February 9 and 16, Sergeant Jayme Campbell #759 conducted compelled administrative interviews of the five involved officers. Each officer was separately interviewed in a compelled interview that included a Lybarger Admonition (including Miranda advisement). Each involved officer was represented at his respective interview by his attorney. The accounts in these interviews were summarily consistent with the accounts that were voluntarily provided by the officers in their Homicide interviews, as well as with evidence and analysis developed in the course of the criminal and administrative investigations.

Officer Charles August #1119

Officer August was interviewed by IAD Sergeants Campbell and Crudo in the presence of his attorney, Mike Hinkley. His account of the incident was consistent with his statement to criminal investigators. His account of the details leading up to his initial contact with Woods varied only slightly and after being shown some snap shots from gathered Muni video. The main questions asked of Officer August were in relation to Department policy and procedure and to clarify any information that required further explanation.

After Officer August gave a narrative of what happened that afternoon, Sgt. Campbell asked him specific questions about certain details. One of the details that was clarified was his first contact with Woods. Officer August indicated that when they pulled up to the bus stop where Woods was standing, his window was rolled down and he heard Woods say, "I'm not going with you." After examining video footage from a Muni bus, it was determined that his window was actually rolled up. In the course of the interview, Officer August and his attorney had the opportunity to view this video and both concurred that the window was in fact rolled up. This did not change Officer August's statement that he did hear Woods make his initial comment of, "I'm not going with you."

Officer August was equipped with his mandated Department-issued force options and equipment. When explaining his force options under the circumstances, he stated that he drew his firearm in response to observing a knife in Woods' hand. He stated his attempts at verbal persuasion were ineffective.

He observed additional officers arrive on scene and position themselves to his right; some with their firearms drawn, and others with less lethal force options, including the 12 gauge ERIW, the 40mm less than lethal weapon, and O.C. spray. He stated he heard these additional officers give Woods verbal commands to drop the knife however, neither these additional commands nor the less lethal options that were deployed were effective in

getting Woods to drop the knife in his hand, or get on the ground. He felt attempting to go hands on was not a feasible option due to the danger the knife posed.

Officer August believed the furthest distance he was away from Woods prior to discharging his firearm was fifteen feet and the closest was ten feet. At one point Officer August admitted he felt too close to Woods, but allowed this because he was trying to give Woods every opportunity to drop the knife as they changed directions back towards their initial point of contact, the bus stop. Officer August stated that he never thought he would have to shoot Woods, and up until the time he fired his weapon, believed Woods would drop the knife.

When asked about Department Bulletin 15-106- *Avoiding the "Lawful but Awful" Use of Force*, as it relates to creating time and distance, he stated that he attempted to create distance by stepping back from Woods after Woods changed directions. He attempted to deescalate the situation and gain rapport with Woods by maintaining some form of conversation with him. He said as other officers were telling Woods to drop the knife, he was saying to Woods, "Hey, we can work through this. Whatever you got going on, we don't have to do things this way." He felt that his attempts to create time and distance did not work.

Before firing his firearm, it never crossed his mind to give a warning to Woods that he was going to shoot because he did not want to shoot him. He tried to talk to Woods to get him to drop the knife despite Woods saying several times, "You're going to have to do it."

He fired his firearm as opposed to continuing to back up to keep Woods contained because Woods was closing the distance quickly, and he was uncertain how close the civilians were behind him.

Officer August said that his concern was that Woods would stab him; get past him and get to some of the other people who were either just watching or waiting for the bus.



After he fired his weapon, he believed his rounds affected Woods because Woods dropped to the ground. Officer August said his backdrop was the building behind Woods, and he did not see any tactical issues with the other officers around.

Officer August fired because he “and the folks behind me” were in danger of being stabbed by Woods who continued to approach him and failed to drop the knife. When he fired, he fired at the suspect’s center-mass (sternum).

He stopped firing when Woods had fallen to the ground, which he believed was after his second shot. He stopped firing because he felt Woods was no longer a threat.

After the shooting, he was approached by Sergeants Hugh “Dean” Hall and Justin Erb who directed him from the immediate scene. He gave a Public Safety Statement to Officer Louis Hargraves, then transported to Bayview Station by Sergeant Erb where he was monitored. He did not suffer any physical injuries from the incident, [REDACTED]

[REDACTED]

#### Officer Seto

Officer Seto was interviewed by IAD Sergeants Campbell and Crudo #1694 in the presence of his attorney Scott Burrell. His narrative of events in this Administrative interview was consistent with the interview he provided to the criminal investigators. The main questions asked of Officer Seto were in relation to Department policy and procedure and to clarify any information that required further explanation.

Officer Seto was carrying the required force options and equipment. At the time of the incident, he was a member of the Specialist Team and had the 40mm ERIW in his patrol vehicle, along with the 12 gauge ERIW. Both of which he had recently qualified with at the San Francisco Police Range.

Officer Seto stated that he and his partner, Officer Navarro, responded to the area to assist in finding the stabbing suspect. He loaded his 40mm ERIW with his partner as his



witness and had it ready due to the information that the suspect was armed with a knife. The suspect was not located at that time, but before he had a chance to place the 40mm ERIW back in the vehicle's trunk, Officer August broadcasted that they located the suspect. Officer Seto handed the 40mm ERIW to Officer Navarro and they proceeded to Officer August's location.

Officer Seto and Officer Navarro triangulated on the suspect with Officer August. A building wall as their backdrop. Because Officer Navarro had been holding the 40mm ERIW, Officer Seto became the lethal cover and had his firearm drawn.

Officer Navarro deployed the 40mm ERIW rubber projectiles several times, striking Woods. The ERIW strikes had little to no effect on Woods. He observed an officer utilize O.C. spray, which had no effect on Woods. Another officer utilize the 12 gauge ERIW, and Officer Seto saw that two to three ERIW rounds struck Woods, but had little effect on Woods.

Officer Seto fired his firearm at Woods when Woods was within ten feet from Officer August as Officer August attempted to backpedal away from Woods. He saw how quickly Woods was closing the gap while still armed with the knife.

Officer Seto believed he was "kind of tunneling," in that it felt like everything was happening all at once. Officer Seto remembered shooting and eventually Woods went down. At that point, everyone ceased fire and Officer Seto remembered holstering his weapon. Officer Seto stated that as soon as everyone holstered their weapons, they attempted to render aid to Woods.

Officer Seto drew his firearm because Woods was armed with a deadly weapon and that he was the lethal cover for his partner who had a less lethal option (ERIW).

Officer Seto gave Woods commands to "drop the knife and get on the ground" and heard other officers giving commands as well. He could not determine the other officers

locations other than to his right. He also heard citizens behind him yelling, but could not understand what they were saying.

Officer Seto did not recall verbally identifying himself as a police officer, but he did hear someone shout “police”. Additionally, he recalled all officers on scene were wearing SFPD uniforms. Officer Seto said, “We were in full uniform, clearly marked, arriving in a fully marked police vehicle with lights and siren. And - - his response to us, it was as if he knew like we were here to take him [to jail]. And, uh, he didn't want to go with us.”

Officer Seto recalled being pulled from the scene due to his involvement in the shooting. He stated after that he was brought back to the station.

He pointed his firearm at Woods because Woods was exhibiting deadly force, and given the speed a suspect can close in on someone, he felt he had to be ready in case it rose to that level.

Officer Seto said that he did not consider holstering his firearm and choosing a different force option because Woods was already exhibiting a deadly threat; a lower level of force to engage someone with deadly force would have put him (Officer Seto) at a severe disadvantage.

He did not consider tackling Woods due to the risk of serious bodily injury or death if he were stabbed, and that was not how he was taught to react tactically to someone wielding a knife. He did not recall if they had a shield in their car, however the shields that they have are for ballistics, and only used against firearms. Officer Seto added that he had never been trained to use the shield against someone with an edged weapon.

The minimum distance between Officer Seto and Woods was approximately 15 feet. Officer Seto felt this was too close, but got this close because he saw how close Woods was getting to Officer August.

When asked if Officer Seto saw any tactical issues with the position of officers, Officer Seto recalled that he believed there was the potential for [REDACTED] otherwise known as crossfire.

Officer Seto's backdrop was a building line behind Woods.

In describing when he fired his firearm, he said it was after he came around the tree and brought his sights up to Woods. Woods was advancing on Officer August. Officer Seto said, as he pulled the trigger he remembered hearing a 'pop.' The 'pop' may have been another officer firing another firearm or a less lethal round. When asked if he fired because he heard the 'pop,' Officer Seto responded, "No. I pulled the trigger - - and it feels as if - - if - - as if the pop came just before I pulled the trigger."

He said Woods was moving forward, towards Officer August when he fired his firearm, and that the knife was still in Woods' hand, down at his side.

He said when he fired his firearm, Officer August was retreating in what appeared to be an attempt to gain distance from Woods.

He fired his firearm in defense of Officer August who he felt was in danger of death or great bodily injury. He stopped firing his firearm when the suspect stopped moving forward; when the threat had ceased. The threat being Woods' forward movement with a deadly weapon. He stopped firing because the suspect was no longer a threat.

Officer Seto denied being given any information as to the mental status of the Woods or made aware of any mental issues associated with the Woods prior to making contact.

Officer Seto's training records indicated he received a 40 hour Police Crisis Intervention Training in January 2010, which he recalled receiving. Officer Seto explained that by the time he had arrived on scene the situation had already escalated to a dangerous level. He said the only method that they were able to use was verbal persuasion, i.e. telling the



suspect to drop the knife and get on the ground. Officer Seto did not feel that they had the time to negotiate with Woods. There was no cover or concealment for the officers at the scene and there were citizens in the area that would have been in danger if the suspect had proceeded past them.

Woods did not give Officer Seto any verbal cues or outward physical cues that lead him to believe that he was going to harm himself. Officer Seto did believe that Woods had potential to harm others since he was the suspect in another stabbing and as well as Woods stating, "You're going to have to shoot me." This lead Officer Seto to believe that Woods was going to fight. On top of that, Woods did not comply with the orders to drop the knife.

Officer Seto confirmed his perception that Woods was more of a danger to others. Officer Seto was asked if he was familiar with Department Bulletin 15-105, *Avoiding the "Lawful, but Awful" Use of Force*, and if he felt this was an option for this incident. Officer Seto said he was familiar with the bulletin, but did not feel this was an option for this incident. He explained, "We can always try - - try to create time and distance, which is what we did. We - - we gave him space in the middle. I mean, we - - there is only a finite amount of space that we can give him and he didn't give us the opportunity to establish that rapport, um, that - - he presented the danger to us and that's - - uh - - that's what we have to deal with and either we weren't able to sit there and try to talk to him." When explaining "finite space," Officer Seto said, "There are other people around us, behind us, and we - - though we had, uh, officers on scene, there were a bunch of officers on scene, there's still not, uh, I mean, there is still only a - - a - - a small amount of space that we can - - that we can contain, um, without jeopardizing our safety and the safety of the public."

After the shooting, he provided a Public Safety Statement to Sgt. Cruz on scene and that he was taken to Bayview Station by Officer Hargraves and Officer Wilgus. [REDACTED]



Officer Santos

Officer Santos was interviewed by IAD Sergeants Campbell and Crudo in the presence of his attorney Scott Burrell. His narrative of events in this Administrative interview was consistent with the interview he provided to the criminal investigators. The main questions asked of Officer Santos were in relation to Department policy and procedure and to clarify any information that required further explanation.

In discussing Officer Santos' equipment, he stated that he was wearing his ballistic vest and his primary firearm was his Department issued Sig Saur P226; as a Specialist Team member, Officer Santos' firearm had a weapon mounted light. The firearm was fully loaded with twelve rounds in the magazine and one in the chamber. Due to Officer Santos' tactical status, The Range modified his firearm with a "shortened reset trigger." Additionally, Officer Santos had his two department issued magazines which were also fully loaded with twelve rounds each. Officer Santos had last qualified with his Department issued firearm in November 2015. As a Specialist Team Member, he qualified with his department issued firearm every three months. Other force options that Officer Santos had were his department issued baton and his OC spray.

In Officer Santos' patrol vehicle he had the 40mm ERIW, his Department issued rifle, and a ballistic shield.

Officer Santos and his partner "triangulated" on Woods upon their arrival to the scene. Officer Santos was at the edge of the sidewalk giving Woods orders and felt like he was straight on from Woods. Officer Santos said that there were people to his left and right.

He had his firearm drawn, pointed at Woods and gave the warning, "Drop the knife or I will shoot you." He could see the knife in Woods hand.

Officer Santos stated aside from the 40mm ERIW he saw Officer Traw come up on his right side with the 12 gauge ERIW bean bag rounds, and saw Officer Ortiz step forward with his OC canister and spray Woods. Neither the ERIW, nor the OC had any effect on Woods. Officer Santos said that after Woods was struck one more time with a 40mm ERIW round, Woods started walking NB.

Officer Santos watched Woods walk north and he noticed a slight avenue of escape for Woods. Officer Santos felt that they could not let Woods leave and that is when he heard the first shot ring out. Officer Santos felt that Woods could have easily attacked Officer August and that is when he realized that he needed to defend Officer August and that is when he fired his firearm.

After Woods went down to the ground, Officer Santos knew the officers had to render aid to Woods. When Officer Santos approached Woods to roll him on his side to handcuff and render aid, he (Officer Santos) saw the knife on the ground by Woods' waist. Officer Santos stepped on the knife and pushed it towards Woods feet so that Woods could not grab the knife. At that moment a Sergeant grabbed him and took him off the line.

When asked if he heard a request for an ERIW, Officer Santos stated that he heard it as they were responding from the area of Mission and Embarcadero. Officer Santos believed it was Officer Thompson who had requested the less lethal.

When Officer Santos first arrived on scene it did not seem that the suspect was contained. It was not until Officer Santos got to the sidewalk that he drew his firearm.

Officer Santos drew his firearm due to the nature of the call of a person armed with a knife who had already stabbed another individual. In addition, per the initial officer's radio transmission, the subject was "coming at another officer with a knife."

Officer Santos believed Woods understood what he was saying, but just did not want to comply.

Officer Santos heard officers giving commands for Woods to drop the knife. The officers' commands were loud and clear. Officer Santos did not believe he specifically identified himself as a police officer, however he was in full uniform along with other officers who were in full uniform. Additionally, his marked SFPD SUV was parked at the corner with the overhead emergency lights activated. Officer Santos said, "I think it was - - it was pretty clear we were - - officers." Officer Santos had the blue and yellow SFPD patch on each shoulder of his BDU, not the tactical subdued green and black SFPD patch.

Officer Santos was asked what thoughts were going through his mind at the moment he approached the suspect with his gun drawn, knife still in the suspect's hand. Officer Santos responded that he was thinking about what options they had, other similar cases, and using every means possible to take the suspect into custody without shooting him. He recognized less lethal options needed to be used in an attempt to take the suspect into custody without shooting him.

When asked if he ever considered holstering his firearm and choosing a different force option, Officer Santos said no and that he saw less lethal options were already being used in the form of the 40mm and the 12 gauge ERIW's. A baton was not feasible due to the proximity one would have to get to the suspect. In explaining the danger of approaching someone with a knife, Officer Santos described the recent incident of a CHP officer who had recently had his throat slashed by a homeless subject who was armed with a knife.

When asked if he thought he should have utilized a shield, Officer Santos explained that using the shield posed a threat as he would not have had the use of either of his hands. Additionally, Officer Santos explained there was time involved in putting the shield together before deploying it, which he did not feel they had.

The maximum distance between him and Woods was approx. 10 - 15 feet and the minimum was approximately 5 - 10 feet. He allowed the close distance between him and



Woods because he had the street behind him with traffic still moving and he was afraid he would get hit.

He felt for a moment that there were slight cross fire issues, but felt that the issues corrected themselves as the officers appeared to realize this.

It was pointed out to Officer Santos that in his homicide interview he stated Woods was walking away from him when he heard the first gunshot and that was when it clicked that Woods was within Officer August's danger zone - in danger of Woods stabbing him or attacking him. Officer Santos was asked to clarify if he was saying that he discharged his firearm only because he heard a gunshot and then believed Officer August himself was in danger, or if he personally believed that Officer August was in danger and that was why he fired. Officer Santos explained that he personally believed Officer August was in danger. Officer Santos stated when he heard the first shot, Woods was still standing and well within range to attack or kill Officer August. Woods was closing in on Officer August and was a threat to him and that was when he shot. Officer Santos believed Woods was approximately within 5 - 10 feet at most from Officer August. At the time he fired, Woods was walking towards Officer August who was retreating by backpedaling.

Officer Santos believes he fired his firearm five times, and when asked why he fired five times, he stated that it was only after his fifth shot that he saw Woods was going down. Officer Santos recalled that he heard other shots when he was firing his firearm, but does not know who else shot. He fired his weapon because he believed Woods was going to attack Officer August with the knife and that Woods was either going to stab or kill Officer August. He stopped firing when he saw Woods going down. The reason he stopped firing was because the threat of the suspect advancing towards an officer with a knife was gone.

When Officer Santos was asked what his intentions were when discharging his firearm at Woods he explained that it was to stop the threat, to stop him from being able to hurt an officer, hurt a civilian, and potentially kill somebody else.

Officer Santos confirmed that he received the 40 hour Police Crisis Intervention Training in June 2009. Officer Santos was asked if the suspect was acting like a normal reasonable citizen to which Officer Santos indicated he was not. When asked if it would have been appropriate to utilize any of the tactics that he learned in the Police Crisis Intervention training to deescalate the situation, he responded, "Everything happened so quick that - - one, there was not quite a safe barrier for us to be able to do it. I couldn't step back and create more time and distance because I had a street behind me and I can't speak for the other officers. I mean, after the fact I know why they couldn't go backwards, that there was people there but at the time I couldn't tell you why they couldn't move. The - - we were in too close of a proximity for uh, that really to work and we tried other routes as in, you know, less lethal or what else we could. But as in, you know, holstering up and trying to talk him down, that - - there's no way that that was feasible."

Officer Santos was asked if Woods gave him any verbal cues or any outward physical cues that Woods was going to harm himself. Officer Santos explained Woods did not give cues in the sense that he was going to stab himself with the weapon, but more so in Woods' action that he took which ultimately led to the police shooting him; going towards an officer with a knife.

Officer Santos was asked if Woods gave him any verbal cues or any outward physical cues that Woods was going to harm or attack anyone else, Officer Santos stated, "Yes," and explained that it was the initial fact that he knew Woods had already stabbed someone and also the fact that Woods was advancing on an officer with a knife in his hand.

Officer Santos was asked about his knowledge with Department Bulletin 15-105, *Avoiding the "Lawful, but Awful" Use of Force*. He responded that he was familiar with the bulletin and said, "I believe that we used every level of force, um, prior to using, uh, discharging a firearm so the time and, uh, time and distance we couldn't - - I know I

couldn't create it because I now had street behind me where buses, squad cars, everyone else is responding. I'd be putting myself in too much, uh, danger. Um. I believe that everyone - - we gave him the most distance we could and used other alternatives, as many other alternatives provided, uh, first before we had to discharge a firearm by using the less lethal, giving him orders, using the 870, using the pepper spray. We did everything we would to comply with this before we had to ultimately discharge our firearms."

After discharging his firearm Officer Santos holstered his firearm and was going to render aid to Woods, but was pulled off line by a Sergeant. He said he provided a public safety statement to Officer Wilgus at the scene. He was removed from the scene and taken to Bayview Station by Officers Brent Bradford and Wendell Jones where he was separated from other officers and monitored by Officer Bradford and Sgt. Jason Garden.

[REDACTED]

[REDACTED]

#### Officer Cuevas

Officer Cuevas was interviewed by IAD Sergeants Campbell and Crudo in the presence of his attorney Don Nobles. His narrative of events in this Administrative interview was consistent with the interview he provided to the criminal investigators. The main questions asked of Officer Cuevas were in relation to Department policy and procedure and to clarify any information that required further explanation.

He was carrying the required force options and equipment. The vehicle he was utilizing was equipped with the 12 gauge ERIW.

Officer Cuevas said upon arrival to the scene, he and Officer Phillips got out of their vehicle to help the officers who had called for assistance. Officer Cuevas initially saw Woods from his patrol vehicle, and Woods was on the sidewalk. There were several officers on scene already. Officer Cuevas did not remember what Woods was doing at the time he saw him but did remember seeing the knife in Woods' hand



either while still in his patrol vehicle, or right after he got out. Woods was on the sidewalk, but not standing still. Officer Cuevas recalled seeing Officer Thompson and Officer August, who were north of Woods. He believed the two officers were “screaming” at Woods to drop the knife- he could hear their commands.

Officer Cuevas drew his firearm after he exited his vehicle and saw how close Officer August was to Woods. When he approached the scene, Officer Cuevas tried to make sure he was not in any cross-fire situation. Officer Cuevas said that he drew his firearm because he heard over the radio that the suspect had charged the officers. In his mind, he knew this was the suspect who had just stabbed someone, although he did not know the condition of the stabbing victim.

Officer Cuevas could not recall if he had given Woods any commands, but said that in a situation like this, he believed he would have been giving commands. Everyone on scene was giving Woods commands to drop the knife. When asked how Woods responded to these commands, Officer Cuevas said that Woods did not respond. He went on to describe Woods as looking like he was “altered,” in Officer Cuevas’ mind, due to drugs and that he looked, “like he was out of his mind.” Officer Cuevas had been to hundreds of mental health detention calls (5150 calls) where the person is suicidal and there are weapons involved, they want to hurt themselves, and/or depressed, but he did not get that impression from Woods. Woods may have seemed somewhat suicidal, but homicidal as well. Officer Cuevas felt that due to the state Woods was in, Woods was going to do something irrational, such as assault an officer. Woods’ shaking his head “no” at the commands to drop the knife reinforced Officer Cuevas’ belief that Woods was homicidal.

Officer Cuevas did not recall if he had identified himself as a police officer or if he heard anyone else identify themselves as such. Officer Cuevas was wearing a SFPD uniform that had the SFPD patches sewn on each shoulder and his silver star affixed to the front, and that he may have had a jacket with his star embroidered to the front.

Officer Cuevas confirmed he had his firearm drawn and pointed at Woods. He pointed it at Woods because he thought Woods was going to attack one of them (the officers), or stab through them and get to someone else, based on Woods' "irrational behavior."

Officer Cuevas had touched on the "21-foot Rule" in his homicide interview and was asked to explain what his understanding was of this rule. Officer Cuevas had learned of this rule in the police academy. What he understood it to mean was that a suspect armed with a weapon, such as a knife, could close the distance from as far away as 21 feet and stab an officer before the officer had time to draw their firearm and shoot the attacker. He not only learned this in the academy, but had first-hand knowledge from being on scenes where a knife was used as the weapon upon officers. Officer Cuevas confirmed that seeing the damage a knife could do to someone without them having time to react influenced the way he approached this situation with Woods.

When asked if he had cover and/or concealment, Officer Cuevas said he remembered there being a tree or telephone pole near him, but did not consider that as a method to create distance from Woods as it was very narrow-it was something that Woods could stab around. Officer Cuevas stated there was no way to expand the scene any more than the officer did without jeopardizing themselves or the public. He did not feel they could give Woods any more space.

Officer Cuevas never lost sight of Woods, and did not recollect have any prior contacts with him. Officer Cuevas did hear Woods speak, but was unsure if he just could not remember what Woods had said, or if he just did not understand him. Officer Cuevas said the only thing he understood from Woods was Woods shaking his head no as he made eye contact with him.

Officer Cuevas never considered holstering his firearm and choosing a different force option, because he knew he was too close to Woods and that there was already less lethal options on scene. He felt that the firearm was his best option and the only option at the time.



When asked if Officer Cuevas ever considered tackling Woods he said, “Absolutely not.” When asked why he said, “That would have been just so dangerous. Um. Not—not only could—the suspect fall on his own knife one of us could fall on the knife and I—like I said earlier, I—believe that that—there was a lanyard attached to that knife and tackling him wouldn't to get that knife away. And you—just tackling someone, um, you know, even if a football player hit some—hit someone of his size, that—that could not—that's not a for-sure way to have him release a grip. On the ground, on your back, you could stab from any position, unless you completely immobilize the hand. And it's just—I don't have a skill set like that.”

Officer Cuevas and his recruit did have an ERIW in their vehicle. When asked if either of them brought it out to engage Woods, Officer Cuevas said that they did not. He explained that when they got to the scene, he had no idea that they were right on top of the situation, and had to get out of the vehicle and react to the situation. He went on to explain that being in a vehicle is a very vulnerable position due to how rapidly an attack can occur. Looking down at the ERIW release button did not cross his mind due to how close they were to the situation. He did see the ERIW coming from other officers, but did not feel it was an option for him to get it out being the threat was right next to him.

Officer Cuevas saw almost every other use of force option used on Woods except for the carotid or the baton, which is what the ERIW is similar to. When asked why he thought the carotid was not used, he said it would not have been an option due to how close one would've to have been to utilize it. He said that this was not an option to use on someone with an edged weapon.

Officer Cuevas believed the maximum distance he was away from Woods at any point was approximately fifteen to twenty feet, and the minimum distance was approximately ten feet. When asked if he felt he was ever too close to Woods, Officer Cuevas stated, “The entire time I—I—I thought we were all too close but I know—we couldn't afford to give him any other distance. The scene, the way the scene was set up, there was no way



to give him any—any more room, any more distance than 21 feet...because, um, our backs to—were to an open roadway. There was a MUNI platform up here which was very close.”

Officer Cuevas knew there were people behind him because he could hear them. He said he knew they were not officers by their voices. He could see people and if they had given Woods any more distance, the officers “wouldn’t have been a shield for those people.” Officer Cuevas felt they had given the maximum allowable distance in order to protect the other people. He said that the other people were not contained and that nobody was pushing them back. There was a MUNI bus that had stopped and he did not know why the passengers were not stopped from getting out.

Officer Cuevas not only felt the officers were too close to Woods, but also the citizens. As the situation unfolded, more civilians began to gather in the area. He also pointed out that there were houses behind Woods that he felt Woods could have entered.

When Officer Cuevas was asked if he felt there were any tactical issues as the officer formed a semi-circle around Woods. Officer Cuevas stated, that he did not feel there were any tactical issues other than all of them being too close to Woods. He felt the officers had no other choice, but to be that close in order to separate Woods from the public.

Officer Cuevas was asked what Woods was doing when he fired his weapon. He said that Woods was walking towards Officer August. He knew Woods was right next to Officer August when he fired his weapon. Woods was so close to Officer August that either one could take a step and touch the other. Officer Cuevas believed he was approximately fifteen feet away from Woods when he fired his weapon at Woods.

Officer Cuevas fired “a couple” rounds at Woods then reassessed. He did not fire after he reassessed because Woods was no longer a threat. He assessed the situation, saw that Woods was down, and he saw officers approach Woods. He said his primary responsibility was his trainee, Officer Phillips; to make sure he was ok. Officer Phillips

still had his firearm drawn and that his firearm was still ready for fire. Officer Cuevas told Officer Phillips several times to “de-cock” his weapon and holster it.

After the shooting, Sergeant Hall approached him and Officer Phillips and pulled them from the scene.

When asked if he fired because Officer August fired, Officer Cuevas said, “No. not at all.” When asked why he fired, Officer Cuevas said, “I fired my firearm—in defense of August, Officer August, myself, all the other officers at the scene who were too close, and for all the citizens and everyone else that was way—that were—who were way too close to the scene. And I knew at the time that he [Woods] was going—he was going to affect another assault. It was only a matter of seconds before he did it again because he had already did it before.”

Officer Cuevas was standing in the “isosceles” position when he fired with both hands gripping the gun out in front of him. He was aiming at the whole person, not a specific part. His backdrop were houses and a brick wall.

He stopped firing after “a split second.” He felt like it was a pull of the trigger, but knew it was at least a couple rounds that he fired. He stopped firing to assess the whole scene; to make sure no one else had gone into the line of fire and to make sure there was no longer a threat. When he stopped firing, the suspect was down. His intention for discharging his weapon was to stop the suspect from being a threat to the officers and the public.

Officer Cuevas confirmed that he had taken the 40hr Police Crisis Intervention training in August 2015. He said that from this training, it did not seem as though Woods was in a mental crisis. Officer Cuevas did not believe that anything in the course covered a situation like the one he was in. He did not feel Woods was willing to be reasoned with.

Woods had not given him any verbal cues or outward physical cues that he was going to harm himself. And when asked if Woods had given him any verbal or outward physical cues that he was going to harm anyone else, officer Cuevas said, “Yes.” He explained that Woods shook his head, “No,” when everyone was giving him commands to drop the weapon. He also said that Woods walked directly towards Officer August, and based on previous radio traffic, believed that Woods had already tried to stab Officer August, at least twice. And on top of that, the information he had that Woods had already stabbed another person.

Officer Cuevas did not feel that Woods was a danger to himself despite saying that he believed Woods was suicidal and homicidal. Officer Cuevas explained that he believed Woods was suicidal but wanted the police to do it. He did not think Woods was going to commit suicide himself. He felt strongly that Woods was going to do something that would force the officers to take action against Woods.

Officer Cuevas was familiar with Department Bulletin 15-106, *Avoiding the “Lawful but Awful” Use of Force*. When asked if he felt this was an option for him during this situation, Officer Cuevas said it was not an option. Officer Cuevas explained, they did try to communicate with Woods, but there was no time, and no distance to give Woods. He continued by saying that there were too many factors involved in the situation to allow for extra time and distance. There were too many citizens in the area, and Woods had already stabbed someone. Officer Cuevas did not feel this bulletin applied to this situation.

When asked if he experienced any sensory distortions, Officer Cuevas said he experienced some memory loss, auditory exclusion, and tunnel vision. [REDACTED]

[REDACTED]



After the shooting, he provided a Public Safety Statement to Sergeant Cruz at the scene prior to being taken back to Bayview Station. Once at the station, he was separated from the other involved officers and monitored by Sergeant Cruz and other officers.

Officer Cuevas said he did not suffer from any physical injuries from the incident [REDACTED]  
[REDACTED]

Officer Cuevas wanted to mention that he feared if Woods had broken through their perimeter, a foot chase may have ensued. Officer Cuevas explained that everyone involved would have been in danger, namely the officers giving chase to a person armed with an edged weapon. He said if officers go forward towards a person who decided to stop and turn on them, the officers would have to stop their forward momentum, perceive the threat, and react to it. He believed that by then it would be too late; meaning, the officers would end up getting stabbed.

When answering a clarification question regarding Officer Cuevas' last point, he included the danger to the public as far as if the officers had to shoot Woods, there would be less of a clear backdrop with potential citizens in the area. He said a foot pursuit of a suspect with an edged weapon would have been a horrible tactical situation to be in.

Officer Cuevas' POA attorney, Don Nobles asked the question of Officer Cuevas that if the suspect had dropped the knife prior to Officer Cuevas exiting his vehicle, would he have fired his firearm at the suspect. Officer Cuevas responded by saying, "Not at all." Mr. Nobles then asked Officer Cuevas why he yelled at the officer to continue to fire the less lethal and Officer Cuevas said it was because he did not want to fire his weapon--that he wanted to take the subject into custody safely, for everyone.

#### Officer Phillips

Officer Phillips was interviewed by IAD Sergeants Campbell and Crudo in the presence of his attorney Mike Hinkley. His narrative of events in this Administrative interview was consistent with the interview he provided to the criminal investigators. The main

questions asked of Officer Phillips were in relation to Department policy and procedure and to clarify any information that required further explanation.

Officer Phillips was carrying the required force options and equipment. At the time of the incident, Officer Phillips had a little less than one year's experience with the San Francisco Police Department. He had no prior law enforcement experience and did not have any military experience. In addition to his firearm, Officer Phillips had his OC spray and his baton as other force options. He also had the ERIW (bean bag rounds) inside his patrol vehicle.

When Officer Phillips got to his position near Woods, he gave the commands of "Drop the knife or I will shoot." Woods did not respond to the commands despite Officer Phillips saying them loud enough for Woods to hear. The only other officer he could say for sure was also giving commands was Officer August. Officer Phillips stated that bystanders were giving commands as well; one [REDACTED] in particular was yelling at Woods to, "Drop the knife, just drop it." Woods did not comply with the pleas from the citizen.

In addition to seeing the 12 gauge ERIW and the 40mm ERIW utilized, Officer Phillips saw another officer use the OC spray, but that did not work either.

Woods tried to walk northbound on Keith St. in the direction of Officer August. Officer August actively retreated from Woods who had become within close proximity--four to five feet of Officer August. It was at this point, that he and other officers fired upon Woods to stop him; to protect Officer August, and the bystanders.

Officer Phillips de-cocked his firearm and holstered it. As he was putting on gloves to render aid to Woods, he was taken from the scene by a Sergeant. He said he was unsure who the Sergeant was, but they walked him to the corner of 3rd and Gilman Sts., and asked him the Public Safety Questions.

Officer Phillips did not identify himself as a Police Officer to Woods because he was wearing a full uniform and driving a marked patrol car. He could not say for certain if anyone else identified themselves as Police Officers. Officer Phillips' uniform was adorned with SFPD patches on each shoulder and that he had his silver star affixed to his uniform shirt that was not covered by anything.

Officer Phillips had his firearm pointed at Woods because Woods was holding a knife. Officer Phillips stated that it was because, "In a very short amount of time, he [the suspect] could close distance and— and—hurt me or any other officer." Officer Phillips touched on the "21 foot" rule in his homicide interview but he did not elaborate. When asked what he knew about the "21-foot Rule" he said, "They say that's the distance it takes to draw your gun from your holster and get a round off before you get stabbed with a knife." When asked if having his firearm drawn made him feel like he had any kind of advantage, he said that it did and explained that because they were closer than 21 feet to Woods in order to contain him. He had his firearm ready and aimed at Woods in case he tried to hurt anyone of the officers or himself. Officer Phillips confirmed that he was taught in the Police Academy to contact a suspect armed with a knife, with his firearm drawn.

Officer Phillips felt that the situation was a very volatile one. He felt as though Woods had an advantage over them being armed with a knife and the speed a person armed with a knife could inflict injury. He felt a little scared about the situation and how it would unfold with Woods not responding to the less lethal force options.

Officer Phillips said his FTO, Officer Cuevas was also making contact with Woods. He said Officer Cuevas was to his left, with his firearm drawn.

Officer Phillips was asked if he considered holstering his firearm and choosing a different force option and he said, "No." He explained that there were others using ERIW, the 40mm less lethal, as well as OC. When asked if he ever considered tackling the suspect, Officer Phillips said he did not because he was not going to put himself in danger. Officer



Phillips stated, “I would not— I’m not trained to take on somebody on knife—with my hands so I’m not gonna [sic] do that because that would put me in unnecessary danger.”

Department Bulletin 15-142 was discussed with Officer Phillips- this bulletin is in regards to who shall be equipped with ERIW in their patrol vehicle. Officer Phillips had mentioned that he did have an ERIW in his patrol vehicle on the day of this incident. When asked if he or his FTO deployed the ERIW on scene, he said, “No.” Officer Phillips stated that it was because he saw other officers with ERIW’s. He saw at least one of the patrol ERIW’s on scene (with the orange stock), and he saw at least one 40mm that the “Specs” (Specialists) carry which was being utilized as he was getting out of his patrol vehicle. Officer Phillips confirmed that these other force options were being used on the suspect prior to anyone discharging their firearms.

He observed the projectiles from the ERIW’s striking Woods. He saw Woods bend, or crouch over after getting hit by one of them, but then immediately stood back up. He saw the bean bag round hit Woods but it had little to no effect, and the same with the OC spray. When asked what he was thinking after seeing Woods reactions to the less lethal deployments, Officer Phillips said, “Um. Kind of an ‘Oh, crap’ because he was not responding to any of the force options. I had seen people get hit with the ERIW’s and— and comply. Typically that’s the reaction by people. And his [Woods’] response of—of not complying was kind of a—a—a frightening one.”

Officer Phillips said the maximum distance between himself and Woods was approximately twelve to fifteen feet, and the minimum distance was approximately ten to twelve feet. He felt they were too close, but also felt it was necessary to contain Woods to prevent him from being able to attack the bystanders on the MUNI platform, as well as the bystanders on Keith. He believed there was a danger potential considering Woods was a stabbing suspect, showing that he was willing to stab somebody.

When asked if he recalled the positioning of officers on scene, Officer Phillips said that, besides Officer August and Officer Cuevas being to his left, Officer Seto was also to his

left, and Officer Santos was to his right. They had formed a semi-circle around Woods with the building line, “in order to contain him.” When asked if he could recall where Officer Navarro was with the 40mm ERIW, Officer Phillips said he was not certain because Officer Navarro would deploy the rounds, then would back up to re-load, and Officer Navarro was moving around.

He initially did not feel there were any tactical issues in the positioning of the officers on scene. His feeling changed as the officers started to shift north as Woods moved. The officers had shifted because there was an outlet for Woods so they had to change their positions.

Officer Phillips fired his weapon when Woods was walking north on Keith St., in the direction of Officer August. He said it looked like Woods had become within four to five feet of Officer August. His sequence of fire was continuous but did not recall how many rounds he had fired. He did not conduct a tactical reload.

Officer Phillips believed his rounds had an effect on Woods because Woods stopped his advance on Officer August. Woods fell forward to the ground. After Woods went down, Officer Phillips said he de-cocked and holstered his weapon.

When asked why he fired his firearm, Officer Phillips said, “To protect Officer August, mostly.” When asked what he meant by “mostly,” Officer Phillips said, “Uh—I—I would say that if—because of Officer August, just ‘cause he was so close to him. I mean, there was secondary thoughts in my head about the bystanders but the primary was the safety of August.”

Officer Phillips later clarified that the immediate threat was towards Officer August and that the bystanders were not immediately threatened. Officer Phillips had acquired his sights before firing and that his backdrop was the building.

He stopped firing when he saw Woods stop advancing; when Woods started going down to the ground.

Officer Phillips stopped firing, “Because it was no longer necessary. That force option, ‘cause {sic} he had stopped. Because the threat was over.” When asked to describe what he meant by “threat” he said, “The armed suspect with the knife. That—someone that had already shown that he was capable of stabbing somebody.” Officer Phillips felt he had to protect Officer August. He said that in a very short amount of time, the suspect could have lunged at Officer August and stabbed him.

Officer Phillips confirmed that Woods had the knife in his hand the entire time he was engaged with him.

He was asked if he was made aware of any medical or mental issues Woods was having and he said “No.” Officer Phillips’ training records indicated that he had received a one-week block of training in Police Crisis Intervention (CIT) during the Academy. When asked if the suspect’s behavior gave him any idea as to his mental status, Officer Phillips said, “No.” When asked if he used any of the techniques he learned from the CIT in an attempt to de-escalate the situation, Officer Phillips said, “No.” He stated that it did not seem appropriate at the time, “Uh, because the situation at the time was very volatile. Uh, it was not a situation where I think we had very much time and where he was being, uh, compliant and—and where he would maybe listen to any verbal, uh, uh, reasoning. Basically.”

Woods did not give any verbal or outward physical cues that he was going to harm himself. Officer Phillips said, “No, not that he was going to harm himself.” Wood did give verbal or outward physical cues that he was a threat to others however. Officer Phillips said, “Yes. His—uh—the fact that he wouldn’t drop the knife and the fact that he had previously stabbed somebody.” Officer Phillips felt that the suspect was more of a danger to others than to himself.



Officer Phillips was directed to Department Bulletin 15-106, *Avoiding the Lawful but Awful” Use of Force*. He confirmed that he was familiar with it. The bulletin was read to Officer Phillips and then he was asked if he felt that it was an option in this situation. Officer Phillips stated, “Um. Well, I believe that we—we—we had distance and—and tried to create as much time as possible. But, um, the lack of compliance and—and safety of—of—you know, other officers and—primarily Officer August, uh, it was not really our best option...”

Officer Phillips may have experienced auditory exclusion because the rounds did not sound as loud and he could not hear everything.

Officer Phillips said he did not render aid to Woods but did see other officers approach Woods and he believed they rendered aid.

Officer Phillips did not recall seeing any supervisors on scene prior to discharging his firearm. He did see a supervisor after he discharged his firearm. He saw Lieutenant Lozada and Sergeant Frost. He gave a Public Safety Statement to someone at the scene but could not recall who.

Officer Phillips was removed from the scene and taken to Bayview Station where he was separated from other officers and monitored. After the incident, he did not suffer from any physical injuries during the incident [REDACTED]

Officer Phillips was asked further follow-up questions. One of the questions asked was if he knew of the stabbing Woods had been involved in. Officer Phillips had heard the victim was in the hospital and had been stabbed on the arm. Officer Phillips understood this to be an assault with a deadly weapon and that it could even be deemed “Attempted Homicide.” When asked what concerns this type of information raised for him, Officer Phillips said, “Uh—well—it means clearly he’s [Woods] a—a violent felon who’s willing to stab innocent people and probably more than willing to stab somebody else.”

Officer Phillips said that if Officer August had let the suspect get passed him, he believed there was the risk of Woods assaulting or hurting another civilian or bystander that was at the MUNI bus, or anywhere.

When asked if Woods was free to leave as a matter of de-escalation, Officer Phillips said “No” and that the suspect was a violent suspect who was armed- he was accused of a violent felony.

**Medical Examiner Investigation:**

Chief Medical Examiner, Michael D. Hunter, M.D., of the San Francisco Medical Examiner’s Office, conducted a necropsy of Mario Woods on December 3-8, 2015 (case number 2015-1140). Assisting in the process were, H. Narula, M.D., E.G. Moffatt, M.D., A.P. Hart, M.D., and Forensic Autopsy Technicians, D. Etheredge, A. Aparicio, and O. Jimenez, also members of the San Francisco Medical Examiner’s Office.

A preliminary version of the Medical Examiner’s Report was signed on 2-11-16, and a revised version was signed on 10-26-16 which had revisions on the fourth and ninth non-numbered pages of the report, and at the end of the report which includes the “Toxicology Report.” [Both are included in the IA case-file.]

Dr. Hunter’s autopsy identified twenty-one (21) gunshot wounds to Mr. Woods, described in his report as 10 penetrating and 10 perforating trajectories with one probable grazing wound. Dr. Hunter also identified five (5) impact injuries- “IMPACT INJURIES CONSISTENT WITH NON-PENETRATING FIREARM ROUNDS ALSO KNOWN AS ‘LESS THAN LETHAL ROUNDS,’” and six (6) “Fragment injuries (shrapnel).”

The Medical Examiner’s Report included a Toxicology Report by Dr. Nikolas P. Lemos, PhD. Testing and analysis of blood samples from Mr. Woods were [REDACTED]

[REDACTED]

██████████ [For a description of some of these substances, refer to section 27- “Miscellaneous Notes.”]

In conclusion, Dr. Hunter lists the cause of death to be “MULTIPLE GUNSHOT WOUNDS.”

Refer to the Medical Examiner’s Report for further details.

**Findings of the Office of the District Attorney:**

The San Francisco District Attorney’s office responded to the scene of this officer-involved shooting and participated in witness/officer interviews. They conducted their own investigation and review. On May 24, 2018, the District Attorney’s Office Independent Investigation Bureau (IIB) issued their report and conclusion. IIB stated, **“...we conclude that we cannot prove beyond a reasonable doubt that the officers were not justified in acting in self-defense or defense of others. Therefore, the District Attorney declines to file criminal charges in this matter.”**

**Involved Officers’ Training and Experience:**

Officer August entered the San Francisco Police Department on ██████████. He completed the Basic Academy training on ██████████. He completed a 40 hour Police Crisis Intervention II training class December of 2011. Officer August was in compliance with his bi-annual firearms qualification.

Officer Seto entered the San Francisco Police Department on ██████████ and completed the Basic Academy training on ██████████. He completed a 40 hour “Police Crisis Intervention” training in January of 2010. He is a member of the Department’s Specialist Team. As a Specialist team member, he was assigned the 40mm ERIW. He was in compliance with his bi-annual firearms qualification in addition to his mandatory Tactical Training days.



Officer Santos entered the San Francisco Police Academy on [REDACTED] and completed the Basic Academy training on [REDACTED]. He completed a 40 hour “Police Crisis Intervention” course in June of 2009. Officer Santos is a member of the Department’s Tactical Unit. He was in compliance with his bi-annual firearms qualification in addition to his mandatory Tactical Training days.

Officer Cuevas entered the San Francisco Police Department on [REDACTED] and completed the Basic Academy training on [REDACTED]. Prior to joining the SFPD, he was with the Antioch Police Department for approximately seven years and was a member of their SWAT Team for five of those years. Officer Cuevas took a 40 hour “Police Crisis Intervention Training II” course and he was in compliance with his bi-annual firearms qualification.

Officer Phillips entered the San Francisco Police Department on [REDACTED]. He completed a 40 hour “Police Crisis Intervention II” course in August of 2015. Officer Phillips was in compliance with his bi-annual firearms qualification.

Less Lethal Officers’ Training:

Officer Navarro utilized the 40mm ERIW which was assigned to his partner, Officer Seto, as a Specialist Team member. Officer Navarro had been a Specialist Team member up until September 2015 and that he had just qualified with the 40mm ERIW in September of 2015 and was in compliance with utilizing it. He completed a 40 hour “Police Crisis Intervention” course in April of 2010, and a 40 hour “Police Crisis Intervention II” course in June of 2013.

Officer Traw was in compliance with ERIW training at the SFPD Range on February 23, 2015. This qualification is not offered at every bi-annual qualification. She completed a 40 hour “Police Crisis Intervention II” course in May of 2014.

Officer Ortiz, as all SFPD Officers was trained in the use of the Department-Issued Oleoresin Capsicum (O.C) spray. In 2011, the Department switched over to the “Sabre

Red OC” which is what Officer Ortiz utilized on the day of this incident. He completed a 40 hour “Police Crisis Intervention” course in January of 2008.

Post Discharge Actions:

As required by Department General Order 8.11, Officer August, Officer Seto, Officer Santos, Officer Cuevas and Officer Phillips were placed on administrative assignment. The General Order states:

*Officers who discharge a firearm in an officer-involved shooting will be reassigned to his or her respective Bureau Headquarters. Officers shall not return to regular assignment for a minimum of 10 calendar days. This reassignment is administrative only and in no way shall be considered punitive.*

While on administrative assignment, Officer August, Officer Seto, Officer Santos, Officer Cuevas, and Officer Phillips responded to the Behavioral Sciences Unit for a Department Mandated debriefing on December 4, 2015. The debriefing was facilitated by Sergeant Art Howard #909.

Officers Seto, Santos, Cuevas, and Phillips responded to the Lake Merced Range on December 8, 2015 and Officer August responded on December 9, 2015 for their Department recommended Post-discharge weapon debriefing. Officer Nick Shihadeh #1612 facilitated the debriefing and reviewed with the officers the proper manipulation of their replacement firearms and related Department Policies and Procedures.

Officer Phillips responded to the San Francisco Police Department’s Regional Training Center on December 7, 2015 and Officers August, Seto, Santos, and Chew responded on December 8, 2015 for a Department recommended post-discharge force options debrief. Officer Phillips’ debriefing was led by Inspector Kirk Tomioka, and Officers August, Seto, Santos, and Cuevas was led by Officer Phil Helmer. Each of the officers satisfactorily completed three “Use of Force” scenarios.

On Wednesday, December 9, 2015, Deputy Chief Mikail Ali convened a Return to Duty Panel to consider whether to recommend the return to duty of Officer Charles D. August, Officer Winson Seto, Officer Antonio Santos, Officer Nicolas Cuevas, and Officer Scott Phillips. The Homicide Detail provided a summary of the initial findings of the criminal investigation. The panel recommended the return of all five officers to their regular duties and forwarded their recommendations to then Chief, Gregory Suhr.

Chief Suhr concurred with the Return to Duty Panel's recommendation and assigned the officers to non-patrol assignments (administrative duties) while the investigation moved forward. A letter regarding this decision was sent to the Police Commission's President at the time, Suzy Loftus, dated December 9, 2015. The Chief's decision was presented to the Police Commission on January 6, 2016.

**CONCLUSION:**

The focus of this administrative investigation is whether Officer Charles D. August #1119, Officer Winson Seto #2370, Officer Antonio Santos #2474, Officer Nicolas Cuevas #2295, and Officer Scott Phillips #1707 discharged their Department-issued firearms on December 2, 2015 in accordance with San Francisco Police Department Policy and Procedure.

The criminal investigation was conducted by the San Francisco Police Department Homicide Detail. (Refer to Inspector Cagney's memo, "Homicide Detail, Officer Involved Shooting Criminal Investigation Report," for additional information.) The Homicide Detail Investigation, led by Inspector John Cagney, was presented to the Office of the District Attorney, who was conducting a parallel criminal investigation, for consideration of its final charging decision. Those findings were released on May 24, 2018, with no criminal charges being filed in the matter.

The administrative investigation considered the criminal investigation, statements, and evidence as well as applicable San Francisco Police Department policies and procedure.



Particular attention was paid to Department General Orders 5.01, *Use of Force* (Rev. 10/04/95); 5.02, *Use of Firearms* (revised March 16, 2011); and Department Bulletins that were in effect at the time of this incident.

#### Policy Review

***This incident occurred prior to DGO 5.02 Use of Firearms being rescinded and DGO 5.01 Use of Force being amended to cover use of firearms (12/21/2016). Therefore, this investigation relied on the policy governing the officers' actions in effect at the time of the incident.***

Department General Order 5.01, *Use of Force*, sets forth the conditions under which force may be used by San Francisco Police Officers to protect individuals from injury by another person, to prevent the commission of crime, to overcome resistance, and to prevent escape. The use of force must be in accordance with legal standards in effect at the time of its use, including California Penal Code Sections 198, 834a, and 835a.

POST LD 20, *Use of Force*—which all San Francisco Police officers are taught during their Basic Academy training—identifies the elements necessary to establish a “sufficiency of fear” in regard to the use of deadly force. LD20 (Version 3.3, 20.03 EO2) breaks down the necessary elements:

According to the law, fear alone does not justify the use of deadly force. There must be a *sufficiency of fear* for the use of deadly force to be justified. (*Penal Code Section 198*)

There are three elements needed to establish sufficiency of fear.

- The circumstances must be sufficient to excite the fears of a *reasonable person* in like circumstances.

- The person must not act *under the influence of fear alone*. There has to be some circumstances or overt act apart from the officer's fear.
- The decision to use deadly force must be made *to save one's self or another* from great bodily injury or death.

#### Objective Reasonable Officer Standard

Use of Force instances, up to and including the use of deadly force, are evaluated in accordance with the "objective reasonable officer" standards established by the United States Supreme Court's Graham-Connor (Graham v. Connor, 490 U.S. 386 (1989)).

Based on this standard, the amount of force applied shall not exceed what is reasonable to overcome the subject's resistance to gain or maintain control of the subject. Each officer must rely on their judgement to employ objectively reasonable force for that specific situation.

The *reasonableness* of a particular use of force must be judged from the perspective of a reasonable officer. The actions should be examined through the eyes of an officer on the scene at the time the force was applied. The officer's actions are not to be examined with the 20/20 hindsight, no matter how compelling the evidence discovered afterward may be. The application of force must be evaluated based on the facts and circumstances confronting the officer, without regard to the officer's underlying intent or motivation, and based on the knowledge that the officer acted properly under the established law at the time.

The officer is not required to have made the best decision or the same decision the reviewer favors; the officer is required to have made a reasonable decision, based on the totality of the circumstances, the information known to the officer at the time, and his or her training and experience.

As affirmed in Section F of Department General order 5.01, *Use of Force*, the use of force is judged from the perspective of a reasonable officer, using this test:

- Would an officer with the same or similar training and experience;
- Facing the same or similar circumstances;
- Act in the same way or use similar judgment?

Factors that are to be considered in the evaluation are:

- The severity of the crime at issue;
- The threat of the suspect to citizens and officers;
- The level of active resistance or effort to escape.

Federal courts have repeatedly affirmed this 1989 decision, finding that the calculus of reasonableness must make allowance for the fact that police officers are often forced to make split-second judgments—in situations that are tense, uncertain and rapidly evolving—about the amount of force applied in a particular situation.

As affirmed by the 9<sup>th</sup> Circuit decision in *Scott vs. Henrich* (39F.3d 912 (9<sup>th</sup> Circuit 1994)), the evaluation of force is whether it is reasonable and justified. Officers are not required by law to use the least intrusive force, but a reasonable application of force.

Department General Order 5.01, *Use of Force* (rev. 10/4/95) (**Revised 12/21/16**)

The Department issued a revised version of Department General order 5.01, *Use of Force* on December 21, 2016- approximately one year after this OIS. Department General order 5.02, *Use of Firearms* was rescinded and its topic was included in the revised DGO 5.01. As previously stated, this incident occurred prior to the adoption of the new policy. This review is based upon the policy in place at the moment of this incident: DGO 5.01, *Use of Force* (rev. 10/4/95) and DGO 5.02, *Use of Firearms* (rev. 3/16/11).

Section D of DGO 5.01, *Use of Force* authorized force options for the San Francisco Police Department.



**D. CATEGORIES OF FORCE TO EMPLOY (IN ASCENDING ORDER OF GRAVITY)**

1. When the use of force is necessary and appropriate, officers shall, to the extent possible, utilize an escalating scale of options and not employ more forceful measures unless it is determined that a lower level of force would not be adequate, or such a level of force is attempted and actually found to be inadequate. The scale of options, in order of increasing severity, is set forth below:
  - a. Verbal Persuasion
  - b. Physical Control (e.g., passive resister, bent wrist control, excluding the carotid restraint)
  - c. Liquid Chemical Agent (Mace/Oleoresin Capsicum)
  - d. Carotid Restraint
  - e. Department-Issued Baton
  - f. Firearm
2. It is not the intent of the order to require officers to try each of the options before escalating to the next. Clearly, good judgment and the circumstances of each situation will dictate the level at which an officer will start. Officers using any type of force are accountable for its use.

Section E of DGO 5.01, *Use of Force* defines reasonable force and reiterates the right of an officer under section 835a of the California Penal Code to use reasonable force to effect an arrest, prevent escape, effect or overcome resistance.

**E. REASONABLE FORCE**

1. Officers must frequently employ the use of force to effect arrests and ensure the public safety. It is not intended that any suspect should ever be allowed to be the first to exercise force, thus gaining an advantage in a physical confrontation. Nothing in this order should be interpreted to mean that and

officer is required to engage in prolonged hand-to-hand combat with all its risks before resorting to the use of force that will more quickly, humanely and safely bring an arrestee under physical control.

2. Penal Code Section 835 (definition- as indicated above)

Section F of DGO 5.01, *Use of Force* authorized when and how force may be justifiably used by San Francisco Police Officers.

**F. CIRCUMSTANCES JUSTIFYING THE USE OF FORCE**

1. Officers may use force in the performance of their duties in the following circumstances:
  - a. To prevent the commission of a public offense.
  - b. To prevent a person from injuring himself/herself.
  - c. To effect the lawful arrest/detention of persons resisting or attempting to evade that arrest/detention.
  - d. In self-defense or in the defense of another person.
2. Before using force, the officer should consider these questions:
  - a. What actions on the part of the suspect justify the use of force?
  - b. What crime is being or has been committed?
  - c. Does the situation require the immediate use of force?

Department General Order 5.02, *Use of Firearms* (rev. 3/16/11) (**Rescinded 12/21/16**)

Department General order 5.02, *Use of Firearms*, revised 3/16/11, set forth how and when San Francisco Police Officers are permitted to draw and utilize a firearm.

Section I.B. HANDLING AND DRAWING FIREARMS sets forth the conditions under which an officer may draw his or her firearm, as follows:

1. HANDLING FIREARMS. An officer shall handle and manipulate a firearm in accordance with Department-approved firearms training. An officer shall not manually cock the hammer of the Department-issued handgun to defeat the first shot double-action feature.
2. AUTHORIZED CIRCUMSTANCES. An officer may draw or exhibit a firearm in the line of duty when the officer had reasonable cause to believe it may be necessary for his or her own safety or for the safety of others. When an officer determines that the threat is over, the officer shall holster his or her firearm or hold the shoulder weapon in port arms position pointed or slung in a manner consistent with Department-approved firearms training. If an officer points a firearm at a person and the person is not arrested, and if the circumstances permit, the officer should tell the individual the reason the officer drew the firearm.
3. DRAWING OTHERWISE PROHIBITED. An officer shall not draw a Department-issued firearm except as authorized by this order, for inspection by a superior, maintenance, safekeeping, or Department-approved training.

Section I.C. DISCHARGE OF FIREARMS enumerates the circumstances in which an officer is permitted to fire his or her weapon.

1. PERMISSIBLE CIRCUMSTANCES. Except as limited by Sections C.4 and C.5., an officer may discharge a firearm in any of the following circumstances:
  - a. In self-defense when the officer has reasonable cause to believe that he or she is in imminent danger of death or serious bodily injury.



- b. In defense of another person when the officer has reasonable cause to believe that the person is in imminent danger of death or serious bodily injury. However, an officer may not discharge a firearm at a person who presents a danger only to him or herself, and there is no reasonable cause to believe that the person poses an imminent danger of death or serious bodily injury to the officer or any other person.
  - c. To apprehend a person when both of the following circumstances exist:
    - (1) The officer has reasonable cause to believe that the person has committed or has attempted to commit a violent felony involving the use or threatened use of deadly force; AND
    - (2) The officer has reasonable cause to believe that a substantial risk exists that the person will cause death or serious bodily injury to officers or others if the person's apprehension is delayed.
  - d. To kill a dangerous animal. To kill an animal that is so badly injured that humanity requires its removal from further suffering where other alternatives are impractical and the owner, if present gives permission.
  - e. To signal for help for an urgent purpose when no other reasonable means can be used.
2. VERBAL WARNING. If feasible, and if doing so would not increase the danger to the officer or others, an officer shall give a verbal warning to submit to the authority of the officer before discharging a firearm.
3. REASONABLE CARE. To the extent practical, an officer shall take reasonable care when discharging his or her firearm so as not to jeopardize the safety of innocent members of the public.
4. GENERALLY PROHIBITED CIRCUMSTANCES. As a warning.

Department Bulletin 15-106, *Avoiding the “Lawful but Awful” Use of Force (4/27/15)*

This DB was put into effect to cause officers to reconsider their choice of force, including the lawful application of force, under certain circumstances.

Investigative Conclusions

After the examination of the totality of this incident, the relevant policies in effect at the time, the investigative conclusions, and other considerations described in this report, the following conclusions have been derived, based on a preponderance of evidence:

- Officers August, Seto, Santos, Cuevas, and Phillips responded to the area of Keith St. and Fitzgerald Ave. on the call of a reported stabbing suspect in the area.
- The first officers on scene, Officer August and Officer Thompson, observed the suspect who was later identified as Mario Woods, armed with a knife and standing amongst a handful of citizens at the bus stop.
- Officer August exited his patrol vehicle, drew his firearm and commanded Woods to drop the knife. Woods failed to adhere to the lawful commands and walked away from Officer August. Officer August followed.
- Officers Seto and Navarro arrived on scene and attempted to assist in Woods’ detention, giving him commands to drop the knife. Officer Seto had his Department-issued firearm drawn and pointed at Woods. Officer Navarro deployed the “less lethal” 40mm ERIW, with Officer Seto as his lethal cover. Woods failed to comply with the commands.
- Officer Navarro delivered a total of four intermittent rounds of 40mm ERIW to Woods, striking him each time. These strikes had little to no effect on Woods; Woods failed to drop the knife.
- Officers Cuevas and his recruit, Officer Phillips, had arrived on scene and joined in the attempt to contain Woods on the sidewalk of Keith Street. Both had their Department-issued firearms drawn, and gave verbal commands to Woods to drop the knife. Woods failed to comply.

- Officer Traw and Officer Ortiz had arrived on scene and attempted to contain and subdue Woods with additional less lethal force options. Officer Traw delivered two bean bag rounds to Woods, and Officer Ortiz delivered a burst of OC spray towards Woods face. Woods showed little to no response from these efforts and did not drop the knife.
- Still armed with the knife, Woods closed the distance between himself and Officer August who, as described by several witnesses, attempted to backpedal away from Woods. Officer August fired five rounds from his Department-issued firearm at Woods, believing there was an immediate threat of a deadly assault on himself and/ or the civilians around him.
- Officer Seto fired five rounds from his Department-issued firearm; Officer Santos fired five rounds from his Department-issued firearm; Officer Cuevas fired four rounds from his Department-issued firearm; and Officer Phillips fired seven rounds from his Department-issued firearm. Each of these four officers, faced with the same circumstances and similar training and experience (except for Officer Phillips who, with limited street experience, still had the same training), believed that there was an immediate threat by Woods of death or serious bodily injury towards Officer August, and/ or civilians in the area if this threat was not stopped.
- Despite the tense, uncertain, and rapidly unfolding nature of this dynamic encounter, each of the five officers were aware of his respective backgrounds when he fired his firearm. Each of the officers took into consideration other, lesser, force options available. Seeing the lesser force options being ineffective, they fired their firearms when they believed the threat necessitated the use of lethal force.
- Each officer stopped firing when they recognized the immediate threat was over.
- Supervisors had been actively involved in the investigation and were on-scene promptly, thus enabling a coordinated response to preserve the scene and



evidence, as well as coordinating the separation and transportation of the involved officers to Bayview Station.

In addition, the use of force by Officer Shaun Navarro, Officer Jennifer Traw, and Officer Jessie Ortiz was examined and was determined to be within the guidelines set for in the San Francisco Police Department General order 5.01- *Use of Force* (Rev. 10/4/95).

**RECOMMENDATION:**

Based on the above described findings, the following recommendations are hereby made:

**It is recommended that Officer Charles D. August's use of his Department-issued firearm on December 2, 2015 be deemed *In Policy*.**

**It is recommended that Officer Winson Seto's use of his Department-issued firearm on December 2, 2015 be deemed *In Policy*.**

**It is recommended that Officer Antonio Santos' use of his Department-issued firearm on December 2, 2015 be deemed *In Policy*.**

**It is recommended that Officer Nicholas Cuevas' use of his Department-issued firearm on December 2, 2015 be deemed *In Policy*.**

**It is recommended that Officer Scott Phillips' use of his Department-issued firearm on December 2, 2015 be deemed *In Policy*.**

Since this incident, the Department has put extensive resources into the training of officers responding to armed subjects who appear to be in crisis; namely the Department-mandated *Use of Force/CIT Training Course*. More emphasis has been put into the assignment of ancillary tasks for additional officers responding to the scene, as well as arriving supervisors' requirements and notifications. Additionally, Department General Order 5.01, *Use of Firearm*, and Department Bulletin 15-106, *Avoiding the "Lawful but*

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*Awful” Use of Force*, have been rescinded and replaced with Department General Order 5.01, *Use of Force*, (Rev.12/21/16).

It is respectfully recommended that this case be forwarded to the Firearm Discharge Review Board for review per Department General Order 8.11.

**Investigated By:**



**Sergeant Jayme Campbell #759**

**Date:**

6/21/18

**Approved By:**

 1287

**Lieutenant R. Andrew Cox #287**

**Date:**

6/12/18